

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ROSE ANN PAGUIRIGAN, individually and
on behalf of all others similarly situated,

Plaintiff,

-VS-

PROMPT NURSING EMPLOYMENT
AGENCY LLC d/b/a SENTOSA SERVICES,
SENTOSACARE LLC, SENTOSA NURSING
RECRUITMENT AGENCY, BENJAMIN
LANDA, BENT PHILIPSON, BERISH
RUBENSTEIN a/k/a BARRY RUBENSTEIN,
FRANCIS LUYUN, GOLDEN GATE
REHABILITATION & HEALTH CARE
CENTER LLC, and SPRING CREEK
REHABILITATION AND NURSING
CENTER,

Defendants

Civil Action No.: 17-cv-01302 (NG-JO)

**DECLARATION OF BERISH
RUBINSTEIN**

BERISH RUBINSTEIN, solemnly declares under the penalties of perjury as follows:

1. I am a Defendant in this action and a member of Defendant Prompt Nursing Employment Agency LLC (“Prompt”). I make this Declaration in further support of Defendants’ motion for summary judgment dismissing Plaintiff’s claims in this action and in opposition to Plaintiff Rose Ann Paguirigan’s (“Paguirigan” or “Plaintiff”) cross-motion for summary judgment on her claims. I have personal knowledge of all matter contained herein.

2. In 2015, Golden Gate Rehabilitation & Health Care Center LLC (“Golden Gate”), assigned to Prompt plaintiff’s contract with Golden Gate (the Contract”).

3. As consideration for the assignment from Golden Gate of Plaintiff’s Contract, Prompt assumed Golden Gate’s (i) expenses concerning plaintiff’s Contract; (ii) obligations to Sentosa Recruitment Agency (“SRA”) for recruitment expenses that SRA incurred in recruiting plaintiff; and (iii) obligations to Sentosacare LLC for certain recruitment expenses which that company incurred (collectively “Recruitment Expenses”). In addition, Prompt assumed all

obligations to Plaintiff in accordance with her Contract, including the payment of all compensation and benefits due to her under the Contract. Plaintiff was aware of the assignment and executed the Wage Acknowledgment detailing Prompt as her employer and \$29.00 as her hourly wage.

4. Annexed hereto as Exhibit A is a copy of a Prompt financial statement concerning Prompt's recruitment expenses for 2015. This record was prepared in the ordinary course of business by Prompt at my direction, with information provided by me and under my supervision.

5. As listed in Exhibit A, these obligations include Prompt's expenses related to the recruitment of nurses including Prompt's related expenses arising from Prompt's assumption of Golden Gate's and other nursing homes Recruitment Expenses.

6. The expenses paid to or on behalf of nurses include payments made towards their first two months of rent in the United States, payment of utilities and housekeeping. The statement also includes the expenses of maintaining an office in the United States and for reimbursing the Recruitment Expenses.

7. The \$388,510 in office expenses listed in Exhibit A included payroll expenses for persons whose work related to the assumption of plaintiff's and nurses' contracts, including the Recruitment Expenses.

8. The rent expense is for rent incurred.

9. The maintenance and housekeeping listed in Exhibit A do not include maintenance and housekeeping expense of Golden Gate's skilled nursing facility.

10. When plaintiff commenced working in the United States, plaintiff had no experience as a nurse and required training even when providing services to patients.

11. Plaintiff breached her Contract when she terminated her employment in March 2016, without any notice in violation of the Contract. At that time, none of Prompt's nurses were

available to assume Plaintiff's position at the Spring Creek nursing home because each of the other Prompt nurses was being staffed at other nursing homes.

12. Prior to and when plaintiff terminated her employment, Prompt was advised by another nurse that plaintiff was seeking to cause other nurses to breach her Contract. Plaintiff and other nurses had previously advised me that they were prepared to quit and cause other nurses to quit.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: Brooklyn, New York
December 20, 2018

/s/Berish Rubinstein
Berish Rubinstein